

City Council Minutes – August 29, 2016

Mayor Laurie Gere called to order the advertised special meeting of the Anacortes City Council of August 29, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Fire Chief Richard Curtis and Parks and Recreation Director Gary Robinson provided a report on the fire at Little Cranberry Lake that began August 25, 2016. Chief Curtis thanked the community for its overwhelming support of the firefighting efforts, the DNR for its exceptional service and a long list of partners and staff. Chief Curtis shared a slide presentation that was added to the Council packet for the evening. He reported that the fire was 95% contained and its cause was still under investigation. Mr. Robinson shared photos of the forest. He thanked the firefighters from DNR on behalf of the entire community. Mr. Robinson outlined some of the upcoming decisions regarding site closures, ongoing site monitoring, rehabilitation of the burn area and protection of adjacent homes. Mr. Walters said it should be illegal to smoke or light fires in the Anacortes Community Forest Lands, not just against ACFL policy. He circulated a draft ordinance to that effect which he asked the Parks and Recreation Committee to review and return with a recommendation.

OTHER BUSINESS

Decide on Appeals and Planning Commission's Recommendation on the Haddon Road 13 Lot Plat & PUD, PUD-2016-1001

Mayor Gere called to order the continued meeting on the appeals of the Planning Commission's recommendation of approval of the plat and Planned Unit Development on Haddon Road, project PUD-2016-1001. She stated that this was a quasi-judicial hearing before the Council which was acting as the appellant body reviewing the recommendation of the Planning Commission. Mayor Gere reminded that the closed record public hearing on this matter had been closed during the August 22, 2016 City Council meeting and Council began deliberation at that time. She said Council deliberation would continue at the present meeting and no further testimony would be taken.

Mayor Gere asked councilmembers to disclose any ex parte communication on this matter that may have occurred since the August 22, 2016 meeting. Mr. Miller reported that he had been out of the country so had not attended the August 22, 2016 meeting but had watched the entire recording of the proceedings and reviewed the record regarding all of the appeals. He added that he still lives within one quarter mile of the project site. No councilmembers disclosed any ex parte communication since the August 22, 2016 meeting. Mayor Gere asked if anyone objected to Mr. Miller's participation as part of the appellant body on the matter.

Craig Sjostrom, 1204 Cleveland Avenue, Mount Vernon, attorney representing appellants Patrick and Carol O'Hearn, said that based on the complexity of the issue and the fact that Mr. Miller was not present at the August 22, 2016 session, he asked that Mr. Miller recuse himself. Steven Nicol, attorney representing the applicant, took the opposite position. He argued that the comprehensive record of the August 22, 2016 proceedings and all prior session allowed all councilmembers to be adequately informed. He observed that no conflict of interest was alleged by the appellants. Mr. Miller requested an opinion from City Attorney Darcy Swetnam. Ms. Swetnam recommended that given the objection raised by the appellants, Mr. Miller recuse himself. Mr. Miller recused himself from the matter and left the Council chambers for the duration of the meeting.

Planning Director Don Measamer summarized the proceedings of August 22, 2016. He listed the topics addressed by Council in its deliberation based on the appeals submitted; those included density, modification process, open space, geological hazards, storm water, and lot frontage. Mayor Gere asked councilmembers to identify issues that had not yet been addressed. Mr. Walters said the remaining issue was resolving the conflict between AMC 16.20.040 and AMC 17.36.110 to determine if 30 feet or 20 feet

of street frontage was required. Mr. Johnson, Ms. Pickett, Mr. Adams, and Mr. Archibald identified no other issues still to be addressed. Ms. Lovelett said she still had concerns regarding potential buffers to achieve equivalency and about geotechnical hazards.

Council engaged in extended consideration of the lot frontage requirements in the code and how those related to public safety access, impermeable surfaces, flag lot configuration, neighborhood character and the level of specificity required for equivalency offered in exchange for code modifications under the PUD ordinance. Ms. Swetnam asked Council to clarify the ambiguity in the code between the 30 feet of frontage identified in the subdivision title and the 20 feet of frontage identified in the R2 chapter of Title 17. She reiterated the previously stated arguments that the most restrictive requirement of 30 feet should apply and the counter argument that the PUD chapter calls for R2 standards to apply. Ms. Swetnam urged Council to establish which provision controlled in order to clarify the conflict for the current and for future projects.

Mr. Walters moved, seconded by Mr. Archibald, to find that 30 feet of frontage is required on a public or private road per AMC 16.20.040 as the default rule. Vote: Ayes – Walters, Lovelett and Archibald. Nays – Pickett, Adams and Johnson. In accordance with RCW 35A.12.100, Mayor Gere broke the tie vote, voting aye. Motion carried, 4 to 3.

Mr. Walters moved, seconded by Ms. Lovelett, that the code requires, based on the definition of “flag lot” in Title 17 and a reasonable interpretation of “frontage”, that frontage is only achieved for a flag lot by the full required width the full distance of the flag. Mr. Measamer suggested adding, “... consistent with AMC 17.06.490(E).” Vote: Ayes – Adams, Lovelett, Archibald, Johnson and Walters. Nays – Pickett. Motion carried, 5 to 1.

Council then considered in some detail whether the application as proposed with the conditions of approval recommended by the Planning Commission provided equivalency for the applicant's requested code modification from the required street frontage.

Ms. Lovelett moved, seconded by Mr. Walters, moved to condition the project to maintain a 20 foot buffer on Haddon Road and the north and west edges of the property. Councilmembers discussed the nature of such a buffer and how the proposed condition would interact with other proposed conditions of approval regarding planting strips, trees, and fencing. Ms. Lovelett amended her motion to also remove the Planning Commission recommended Condition of Approval 25 requiring a seven foot tall fence on the north and west sides of the property. Vote: Ayes – Lovelett. Nays – Adams, Archibald, Johnson, Walters and Pickett. Motion failed, 5 to 1.

Council continued considered of whether the application as proposed with the conditions of approval recommended by the Planning Commission provided equivalency for the applicant's requested code modification from the required street frontage.

Mr. Walters moved to remove the fence requirement along the northern side, add a 20 foot buffer to be reviewed by an arborist, and modify the Planning Commission's recommended condition regarding Lot 13 to require open space below the split rail fence only. Motion died for lack of a second.

At approximately 8:00 p.m. Mayor Gere called a seven minute break. At 8:07 p.m. the mayor called the meeting back to order.

Council continued considered of whether the application as proposed with the conditions of approval recommended by the Planning Commission provided equivalency for the applicant's requested code modification from the required street frontage. Mr. Johnson, Ms. Pickett and Mr. Adams all voiced support for the Planning Commission recommendation. Mr. Walters, Ms. Lovelett and Mr. Archibald all argued that additional conditions were necessary. Discussion continued to that end.

Mr. Walters moved, seconded by Mr. Archibald, to add a condition requiring that a 20 foot native vegetated buffer shall be provided along the west and north property line, evaluated by a certified

arborist to determine health, condition and viability of trees; to restore the development right to Lot 13 such that open space would be designated east but not west of the split rail fence; and eliminate the fence requirement on the north and west sides of the project. Councilmembers discussed access to the designated open space. Mr. Measamer suggested that the 20-foot water line easement could be noted as a water line and public access easement. Mr. Walters moved to amend his motion to remove the 20 foot buffer along the west property line. Motion died for lack of a second. **Vote: Ayes – Lovelett, Archibald, Johnson, Walters and Pickett. Nays – Adams. Motion carried, 5 to 1.**

Ms. Lovelett inquired of staff how to achieve better safety around the power pole at the corner of Haddon and Whistle Lake roads. City Engineering Technician Steve Lange said he would work with PSE, Skagit County and the neighborhood to have the pole moved, noting that it was located in Skagit County.

Mr. Johnson moved, seconded by Mr. Archibald, to direct staff to prepare Findings of Fact and Conclusions of Law to approve the Haddon Road preliminary plat, PUD and proposed code modifications subject to conditions of approval as noted in the Planning Commission recommendation, including the correction to Condition 26 to read “All lots must be to the R2 standard including and clarifying that no lot may be under 7,500 square feet” as noted in the staff report, and further subject to the conditions imposed by City Council at the present meeting. Vote: Ayes – Archibald, Johnson, Walters, Pickett and Adams. Nays – Lovelett. Motion carried, 5 to 1.

There being no further business, at approximately 8:42 p.m. the Anacortes City Council meeting of August 29, 2016 was adjourned.